

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

SHMUEL ABRAHAM,

Defendant.

20-CR-411 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

The Court recognizes that as part of Defendant's plea agreement, the parties concluded that the loss to the victim "reasonably cannot be determined," and that the gain to Defendant should thus be used as an alternative measure of loss for the purpose of calculating the loss amount under the Sentencing Guidelines. *See* Plea Agreement at 2. It is unclear to the Court, however, why Government Exhibit 4—which was submitted to the Court in connection with Yoel Abraham's sentencing—does not provide the necessary information. While the parties may well seek to adhere to the Guidelines range agreed to in the plea agreement, the Court nonetheless has the obligation to independently calculate the Guidelines range. *See United States v. Soto*, 706 F. App'x 689, 691 (2d Cir. 2009) ("[T]he parties cannot stipulate away the district court's responsibility to calculate independently the applicable Guidelines range.").

Accordingly, the Government shall provide Defendant's counsel with Exhibit 4, together with an explanation, no later than September 16, 2024. At sentencing, the parties should be

prepared to discuss Exhibit 4, particularly with regard to calculating the intended loss amount under the Sentencing Guidelines. *See U.S.S.G. § 2B1.1.*

SO ORDERED.

Dated: September 11, 2024
New York, New York



Ronnie Abrams
United States District Judge